

REMARKS

I. Status of Claims

Claims 1, 4-7, and 10-11 are pending in the application. Claims 1 and 7 are independent. Claims 1 and 7 are currently amended. Claims 2-3 and 8-9 were previously canceled.

Claims 1, 4-7, 10 and 11 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 5, 7, and 8 stand rejected under 35 USC 102(b) as allegedly being anticipated by Hasegawa (USP 5,460,138) (“Hasegawa”).

Claims 6 and 11 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Hasegawa in view of Kani et al (USP 5,114,769) (“Kani”).

Claims 4 and 10 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Hasegawa in view of Kristiansson (USP 5,323,743) (“Kristiansson”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. 35 USC 112, second paragraph, Rejection

Claims 1, 4-7, 10 and 11 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant respectfully submits that previously presented claims 1 and 7 recite, *inter alia*:

a cranking control module that controls said cranking module when the auto start condition is fulfilled when the internal combustion engine is auto stopped with fulfillment of the auto stop condition, the cranking control module controls the cranking module to crank the internal combustion engine when the reverse rotation of the internal combustion engine is not presumed by said reverse rotation presumption module, and the cranking control module controls the cranking module to crank the internal combustion engine after the reverse rotation of the internal combustion engine becomes not to be presumed by the reverse rotation presumption module when the reverse rotation of the internal combustion engine is presumed by the reverse rotation presumption module (emphasis added)

The Office Action contends that the reverse rotation presumption limitation does not satisfy the requirements of 35 USC § 112, second paragraph. That being said, it appears that the Examiner appears to be confused by the language “is presumed” and “is not presumed” in, for example, the portion of claim 1 provided herein above, and it is respectfully submitted that the rejection seems to be based on a perceived contradiction. (See Office Action at 2.) However, the Applicant respectfully submits that one of ordinary skill in the art, upon reading the specification, would find no contradiction in this language.

The reverse rotation presumption limitation essentially states that the cranking control module controls the cranking module depending on, *inter alia*, whether the reverse rotation presumption module determines that the internal combustion engine is rotating in reverse. If the reverse rotation presumption module **does not** determine that the engine is rotating in reverse, then the cranking control module instructs the cranking module to crank the engine. If the reverse rotation presumption module **does** determine that the engine is rotating in reverse, then the cranking control module waits to instruct the cranking module to crank the engine until after the reverse rotation presumption module determines that the engine is no longer rotating in reverse. Support for this limitation is found in at least FIG. 2 (specifically steps S120 and S130) and paragraph [0029] of the present application. As explained in paragraph [0029],

[w]hen it is determined at step S120 that the engine does not rotate in the reverse direction, the CPU actuates the starter motor to start cranking the engine (step S130). When it is determined at step S120 that the engine rotates in the reverse direction, on the other hand, the CPU judges the current timing as inadequate for cranking the engine and returns to the processing of step S100 [the determination of various quantities to determine whether the preset starting conditions are met] without cranking the engine. [internal reference characters removed]

Nonetheless, without waiving any argument, and to advance prosecution, the Applicant has amended claims 1 and 7 in order to obviate any perceived ambiguity. For example, claim 1 is amended as follows:

a cranking control module that controls said cranking module when the auto start condition is fulfilled when the internal combustion engine is auto stopped with fulfillment of the auto stop condition, wherein, when the reverse rotation of the internal combustion engine is not presumed by said reverse rotation presumption

module, the cranking control module controls the cranking module to crank the internal combustion engine ~~when the reverse rotation of the internal combustion engine is not presumed by said reverse rotation presumption module, and wherein, when the reverse rotation of the internal combustion engine is presumed by the reverse rotation presumption module~~, the cranking control module controls the cranking module to crank the internal combustion engine after the reverse rotation of the internal combustion engine becomes not to be presumed by the reverse rotation presumption module ~~when the reverse rotation of the internal combustion engine is presumed by the reverse rotation presumption module~~

In view of the foregoing amendments to the inventions of claims 1 and 7, withdrawal of the 35 USC 112, second paragraph, rejection is respectfully requested.

III. Pending Claims

Independent claims 1 and 7 stand rejected under 35 USC 102(b) as allegedly being anticipated by Hasegawa.

The Applicant respectfully submits that claim 1 is patentable over Hasegawa at least because it recites, *inter alia*, “...wherein, when the reverse rotation of the internal combustion engine is not presumed by said reverse rotation presumption module, the cranking control module controls the cranking module to crank the internal combustion engine, and wherein, when the reverse rotation of the internal combustion engine is presumed by the reverse rotation presumption module, the cranking control module controls the cranking module to crank the internal combustion engine after the reverse rotation of the internal combustion engine becomes not to be presumed by the reverse rotation presumption module.”

The Applicant respectfully submits that claim 7 is patentable over Hasegawa at least because it recites, *inter alia*, “...wherein, when the reverse rotation of the internal combustion engine is not presumed by said reverse rotation presumption module, the cranking control module controls the cranking module to crank the internal combustion engine, and wherein, when the reverse rotation of the internal combustion engine is presumed by the reverse rotation presumption module, the cranking control module controls the cranking module to crank the internal combustion engine after the reverse rotation of the internal combustion engine becomes not to be presumed by the reverse rotation presumption module.”

The Applicant respectfully submits that Hasegawa (as well as the other prior art references of record) does not teach a starting apparatus that determines whether to crank the engine based on a determination of whether the engine is rotating in reverse. Evidencing this position, although the Office Action rejected claims 1 and 7 as allegedly being anticipated by Hasegawa, it does not even consider/address the reverse rotation presumption limitation in the rejection. (*See* Office Action at 3.) It is respectfully submitted that lacking any teaching or suggestion of each and every element of the Applicant's claims, Hasegawa does not anticipate the inventions of claims 1 and 7 as alleged. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See* MPEP § 2131 quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Also, the Applicant respectfully submits that the other cited references do not address the deficiencies of Hasegawa. More specifically, neither Kani, Kristiansson, nor, any of the other cited references provide any teaching and/or suggestion for modifying Hasegawa. As discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to modify the prior art in the manner as recited in the inventions of claims 1 and 7. Obviousness cannot be sustained on mere conclusory statements.

The Applicant respectfully submits that for at least these reasons, claims 1 and 7, as well as their dependent claims, are patentable over the cited references.

IV. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: April 10, 2009

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